

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF CARL)	APPEAL NOS. 06-A-2100,
E. REICHARD from the decision of the Board)	06-A-2101, 06-A-2102,
of Equalization of Bear Lake County for tax)	06-A-2103, 06-A-2104
year 2006.)	and 06-A-2105
)	FINAL DECISION
)	AND ORDER

RURAL LAND APPEALS

THESE MATTERS came on for consolidated hearing on October 12, 2006, in Paris, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs also participated in this decision. Appellant Carl Reichard appeared for himself. Assessor Lynn Lewis and Appraiser Laura Stafford appeared for Respondent Bear Lake County. These appeals are taken from a decision of the Bear Lake County Board of Equalization (BOE) denying the protests of the valuation for taxing purposes of property described as Parcel Nos. 2803.04, 2818.05, 2807.01, 2807.04, 2818.01 and 2818.07.

The issue on appeal is the market value of rural land.

The decision of the Bear Lake County Board of Equalization is affirmed.

FINDINGS OF FACT

The parties' value positions for each parcel follow:

<u>Parcel</u>	<u>Assessed Value</u>	<u>Taxpayer's Value</u>
2803.04	\$23,560	\$15,500
2818.05	\$54,720	\$35,010
2807.01	\$46,190	\$30,000
2807.04	\$16,200	\$11,000
2818.01	\$6,480	\$3,900
2818.07	\$6,190	\$3,670

The subject properties are undeveloped lots ranging in size from 5.43 to 40.04 acres. They are located in Lake Pointe Subdivision in rural Bear Lake County.

The property is held in trust by Appellant and his son. There are no improvements on the land and Appellant described the properties as bare land “with sagebrush and a few quaking aspen.”

Appellant believes the 2006 assessments are in error because they are excessively high, having increased over 50% in one year. It was claimed the assessed values of the properties exceed market value and were erroneous because lakefront and resort property sales were compared to subjects. The Assessor testified properties that are identified as lakefront and resort properties were not considered in determining subject’s assessed values.

As evidence of over-assessment, Appellant testified that John Faults, who purchased property at Bear Lake West in 2004, told him that he paid approximately \$15,000 for 20 acres. Appellant also testified that another 20-acre property sold for \$20,000 in July 2006 and that there was a 40-acre property listed for \$35,000 with Smith Realty. Appellant gave no further information regarding the sales and listing. Appellant also testified someone at Smith Realty told him the subject lots would not sell for the assessed values.

Respondent assessed subject land based on a database created from recent property sales in the county. Buyers were requested to volunteer information regarding the sale price of property and sale terms to the Assessor’s Office. The Assessor noted he had no ability to mandate such information be provided, or to otherwise compel sale prices from the seller, buyer, realtor or any other entity. Respondent therefore relied solely on the information provided by buyers in establishing market values for various properties. The appraisals reportedly consider value factors such as category, size, location and use.

Using a regression model, Respondent predicted market value for similar properties. The model predicted the average base value for property in particular categories from which the

Assessor calculated assessed values. In the event a particular property had features that made it better or worse than average, the assessed value would be adjusted to reflect the differences.

Relative to Appellant's properties, Respondent developed a land value table for the 2006 tax year based on nine (9) recent sales of comparable properties. Lake or resort properties were not included in the land table and associated analysis. The Assessor determined the market value of a 20-acre lot in Appellant's area was \$42,200. A 40-acre lot was valued at \$58,600. Prior year assessed values were lower than this and the Assessor applied a 170% index factor to raise assessed values consistent with the current average sale price information.

Mr. Fauls had responded to the Assessor's inquiry regarding an October 2004 sale by stating the property was purchased for \$55,000. In addition, the Assessor testified to having reviewed area listings with a local real estate agent. The information included four, 20-acre parcels similar to subjects. The parcels were listed for sale between \$34,000 and \$44,000. The Assessor testified he did not rely on listing information in determining assessed values, but believed the listings support the sales information received.

Appellant expressed frustration with the lack of information regarding the model used to determine assessed land values. It was opined as unreasonable to calculate values based on the sale prices of nine properties, as nine was an inadequate sample for a true representation of the market. Appellant also contended obtaining sales prices from buyers was not reliable because there was no verification of the price other than the buyer's statement. The Assessor testified there was no alternative mechanism to verify sale prices.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments

and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The valuation placed on property by the Assessor for tax purposes is presumed to be correct. The burden of proof lies with the party challenging the assessment to show by [a preponderance of the] evidence that he is entitled to relief. *Greenfield Vill. Apartments, L.P. v. Ada County*, 130 Idaho 207, 209 (1997). Idaho Code § 63-511(4).

In tax appeals from the county Board of Equalization, relief can be granted only if the Assessor's valuation is "manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous." *Greenfield Vill. Apartments*, 130 Idaho at 209, citing *Merris v. Ada County*, 100 Idaho 59, 64 (1979).

Idaho Code § 63-208 requires the assessor to determine the market value of taxable property for assessment purposes. The germane definition is found in Idaho Code § 63-201(10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. *Merris v. Ada County*, 100 Idaho 59 (1979).

Appellant asserted the assessed values of subjects are erroneous and excessive, and do not reflect true market value. Appellant does not dispute property values have increased, but argued the property could not be sold for the assessed values. In terms of market value, Appellant provided information regarding three properties. Relative to the Faults property, the Assessor received written and signed verification that the sales price was \$55,000, not the

\$15,000 reported by Appellant.

On the other two properties noted by Appellant, the sale or listing price was approximately 50% less than the average sale price reflected in Respondent's analysis. Even if Appellant's properties were located in the same area as subjects, the information on the sales was relatively vague. The Board finds it was not persuasively demonstrated that the market values calculated by Respondent are erroneous.

The County produced evidence establishing how the assessed values were calculated. While assessed values did increase dramatically from the prior year, there was no evidence to indicate the increase was excessive or erroneous. In valuing property, the Assessor is limited and controlled by the available sales information. While it is desirable to have all, or near all, of the sales information and prices within the county, it is not required. The Assessor took reasonable steps to obtain an average market price upon which subject land assessments were calculated. There was no evidence presented at the hearing proving the subject properties were erroneously assessed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the value decision of the Bear Lake County Board of Equalization concerning the subject parcels be, and the same hereby is, affirmed.

DATED this 27th day of April 2007.